

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

-----In the Matter of-----)
MOLOKAI PUBLIC UTILITIES, INC.,)
WAI`OLA O MOLOKA`I, INC., and) DOCKET NO. 2008-0115
MOSCO, INC.)
For Temporary Rate Relief.)
_____)

ORDER APPROVING EXTENSION OF TEMPORARY RATE RELIEF AND
REQUEST FOR AN EXTENSION TO FILE GENERAL RATE CASE APPLICATIONS

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ORDER APPROVING EXTENSION OF TEMPORARY RATE RELIEF AND
REQUEST FOR AN EXTENSION TO FILE GENERAL RATE CASE APPLICATIONS

By this Order, the commission grants the Motion to Extend Order Approving Temporary Rate Relief, filed by MOLOKAI PUBLIC UTILITIES, INC. ("MPU"), WAI`OLA O MOLOKA`I, INC. ("Wai`ola"), and MOSCO, INC. ("Mosco") (collectively, "Utilities") on October 29, 2008 ("Motion"). In addition, the commission grants the joint request filed by MPU and Wai`ola on February 12, 2009, for a thirteen-day extension of time to file general rate case applications ("Extension Request"), pursuant to the commission's order issued on August 14, 2008, approving temporary rate relief for MPU and Wai`ola ("Temporary Rate Order").

I.

Background

On June 16, 2008, the commission opened this docket to consider providing any required temporary rate relief to the Utilities. The commission named as parties to this proceeding,

the Utilities, the DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, DIVISION OF CONSUMER ADVOCACY, MOLOKAI PROPERTIES LIMITED ("MPL"), and the COUNTY OF MAUI ("County") (collectively, "Parties").

After holding a public hearing in West Molokai on July 15, 2008, and reviewing all position statements from the Parties and comments from the public, the commission issued the Temporary Rate Order, which approved temporary rate relief for MPU and Wai'ola.¹ Specifically, the commission ruled that MPU's rates shall be temporarily increased from \$3.18 per 1,000 gallons to \$6.04 per 1,000 gallons -- resulting in projected additional annual revenues of \$398,687; and Wai'ola's rates shall be temporarily increased from \$1.85 per 1,000 gallons to \$5.15 per 1,000 gallons -- resulting in projected additional annual revenues of \$156,710. The Temporary Rate Order stated that the rate increases shall take effect on September 1, 2008, and shall continue for a period of six months, terminating on February 28, 2009, unless otherwise ordered by the commission. In addition, the commission ordered MPU and Wai'ola to file an application for a general rate increase with the commission if a third-party is not found to take over the Utilities' systems, within six months of the date of the Temporary Rate Order, or by February 14, 2009.

¹Based on a review of Mosco's financial records, the commission found that Mosco was financially viable. Moreover, the Utilities and MPL represented that Mosco did not require a rate increase. Thus, the commission approved a 0.00% rate increase for Mosco.

II.

Discussion

A.

Motion

On October 29, 2008, the Utilities filed the Motion, requesting that the commission extend its Temporary Rate Order for an additional six months, or until such time as may be necessary for the Utilities to obtain commission approval of their general rate case applications, as required by the Temporary Rate Order. In support of the Motion, the Utilities explain that, to date, a third-party successor to the Utilities' systems has not been found, and that they are therefore in the process of preparing applications for general rate increases that will be filed in "January or early February, 2009."² On the assumption that it would take the commission approximately six months to process the applications, the Utilities ask that the Temporary Rate Order be extended for a six-month period to the end of August 2009, or until such time as may be necessary to obtain commission approval of the general rate increase applications. The Utilities represent that they "are committed to continuing to provide service to [their] customers until such time as the general rate increase(s) are approved, provided that the temporary rate relief granted by the Temporary Rate Order is extended as provided herein."³

²Motion at 2.

³Id. at 3.

According to the Utilities, during the first month that the temporary rates were in effect, MPU and Wai'ola continued to operate at a deficit. They further represent:

Although fuel costs have begun to decrease recently, water usage and, consequently, revenues have decreased. The Utilities do not anticipate any material change in their short-term financial picture.

The temporary rate increase granted by the Temporary Rate Order, while not wholly sufficient to cover operating costs as indicated above, has provided substantial relief to MPU and Wai'ola, and we acknowledge and appreciate the Commission's unprecedented action to provide MPU and Wai'ola with this financial relief. Having said this, however, a continuation of the temporary rate increase during the time the general rate increase applications are being processed will allow the Utilities to continue providing utility services to its customers.⁴

On November 6, 2008, the County filed a Response to the Motion, in which the County stated that it cannot determine at this time whether the commission would be justified in granting the Motion because the Utilities have not filed adequate, audited financial documentation.

Based on the representations in the Motion and the entire record herein, the commission finds it reasonable to grant the Motion and extend the temporary rate relief approved in the Temporary Rate Order for a six-month period (i.e., until August 2009), or until the commission rules on the general rate applications to be filed by the Utilities. This will ensure continued operations by MPU and Wai'ola while the general rate applications are being reviewed by the commission. The

⁴Id.

commission may, however, at any point, rescind the extension in its discretion if the circumstances so justify.

During the period while the temporary rates are extended, the Utilities are still required to comply with Ordering Paragraph Nos. 6 and 7 in the Temporary Rate Order. Thus, the Utilities shall continue to file: (1) within thirty days after the close of every month, monthly financial reports, including, but not limited to, information on current customer counts, billing records, and operating expenses; and (2) bi-weekly status reports, addressing the transitioning of the ownership and/or operation of the Utilities to another private or governmental entity.⁵

B.

Extension Request

As set forth above, the Temporary Rate Order required MPU and Wai'ola to file applications for general rate increases if a third-party is not found to take over the Utilities' systems, within six months of the date of the Temporary Rate

⁵The commission notes that Ordering Paragraph No. 8 in the Temporary Rate Order still applies in that MPU and Wai'ola are required to file general rate case applications if a third-party is not found to take over the Utilities' systems, within six months of the date of the Temporary Rate Order. However, as addressed infra, the commission grants the Utilities an extension of time, until March 2, 2009, to file the general rate case applications. Moreover, Ordering Paragraph No. 9 in the Temporary Rate Order still applies, in that if in the general rate cases, the commission determines that MPU and Wai'ola have collected temporary rates in excess of amounts determined to be just and reasonable, the commission may order a refund to ratepayers, together with interest, as provided in Hawaii Revised Statutes § 269-16(c).

Order, or by February 14, 2009.⁶ By letter filed on February 12, 2009, MPU and Wai`ola requested a thirteen-day extension of time (i.e., from February 17, 2009 to March 2, 2009) to file general rate case applications with the commission. MPU and Wai`ola explain in the letter that the extension is necessary "[d]ue to the complexities of the general rate case and the need to prepare numerous detailed exhibits and/or supporting documents[.]"⁷ They further represent that the Consumer Advocate has no objections to the Extension Request.

The Commission will treat the Extension Request as a motion for an extension of time under HAR §§ 6-61-23 and 6-61-41. HAR § 6-61-23(a)(1) allows the commission to enlarge a period by which a required act must be completed upon a showing of good cause provided that a written request is made before the expiration of the period originally prescribed.

After reviewing the entire record, the Commission grants the Extension Request and approves an extension of time, until March 2, 2009, for MPU and Wai`ola to file general rate case applications with the commission.

⁶Because February 14, 2009 falls on a Saturday, and Monday, February 16, 2009 is a holiday, the six-month period runs until the next day that is not a weekend or holiday, which is Tuesday, February 17, 2009. See Hawaii Administrative Rules ("HAR") § 6-61-22.

⁷Extension Request at 1.

III.

Orders

THE COMMISSION ORDERS:

1. The Motion is granted.
2. Unless otherwise ordered by the commission, the temporary rates approved in the Temporary Rate Order shall be extended until August 2009, or until the commission rules on the general rate case applications to be filed by the Utilities.
3. During the period while the temporary rates are extended, the Utilities shall continue to comply with Ordering Paragraph Nos. 6 and 7 in the Temporary Rate Order. Thus, the Utilities shall continue to file: (1) within thirty days after the close of every month, monthly financial reports, including, but not limited to, information on current customer counts, billing records, and operating expenses; and (2) bi-weekly status reports, addressing the transitioning of the ownership and/or operation of the Utilities to another private or governmental entity.
4. The Extension Request is granted. MPU and Wai'ola are granted an extension of time, until March 2, 2009, to file general rate case applications, in compliance with the commission's Temporary Rate Order.


DONE at Honolulu, Hawaii

FEB 24 2009


PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By: 
Carlito P. Caliboso, Chairman

By: 
John E. Cole, Commissioner

By: 
Leslie H. Kondo, Commissioner

APPROVED AS TO FORM:


Kaiulani Kidani Shinsato
Commission Counsel

2008-0115.cp

CERTIFICATE OF SERVICE

The foregoing order was served on the date of filing by mail, postage prepaid, and properly addressed to the following parties:

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Certificate of Service
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